

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

CATHY RICHARD,	)	
	)	
Plaintiff,	)	Case No.: 4:11-cv-00643
	)	
vs.	)	PLAINTIFF'S COMPLAINT
	)	AND DEMAND FOR JURY TRIAL
SANTANDER CONSUMER USA INC.,	)	
	)	
Defendant.	)	

**VERIFIED COMPLAINT**

CATHY RICHARD, ("Plaintiff"), through the undersigned counsel, DAVID LILLEY, alleges the following against SANTANDER CONSUMER USA INC., ("Defendant"):

**INTRODUCTION**

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. 1692 et seq. (FDCPA).

**JURISDICTION AND VENUE**

2. Jurisdiction of this court arises pursuant to 15 U.S.C. 1692k(d), which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy."

3. Defendant conducts business in the state of Texas, and therefore, personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. 1391(b)(1).

5. Declaratory relief is available pursuant to 28 U.S.C. 2201 and 2202.

**PARTIES**

6. Plaintiff is a natural person residing in Fort Worth, Texas.

7. Plaintiff is a consumer as that term is defined by 15 U.S.C. 1692a(3), and according to Defendant, Plaintiff allegedly owes a debt as that term is defined by 15 U.S.C. 1692a(5).

8. Defendant is a debt collector as that term is defined by 15 U.S.C. 1692a(6), and sought to collect a consumer debt from Plaintiff.

9. Defendant is a national company, with its corporate office located at: Santander Consumer USA Inc., 1010 W. Mockingbird Lane, Suite 100, Dallas, Texas 75247. The registered agent for Santander is CT Corporation System, 350 N. St. Paul Street., Suite 2900, Dallas, Texas 75201-4234.

10. Defendant, in the ordinary course of business, regularly, on behalf of itself or others, engages in debt collection.

**FACTUAL ALLEGATIONS**

**A. DEBT**

11. Plaintiff incurred a financial obligation in the approximate amount of \$15,638.29 (the "Debt") to HSBC Consumer Lending (the "Creditor") in connection with an auto loan on a 2005 Nissan 350Z.

12. The Debt arose from services allegedly provided by the Creditor which were primarily for family, personal or household purposes and which meets the definition of a "debt" under 15 U.S.C. §1692a(5).

13. The debt was incurred in 2009.

14. The Debt was purchased, assigned or transferred to Santander Consumer USA

Inc. for collection, or Santander Consumer USA Inc. was employed by the Creditor to collect the Debt.

15. The Defendant attempted to collect the Debt and, as such, engaged in “communications” as defined in 15 U.S.C. §1692a(2).

**B. HARASSMENT AND ABUSIVE TACTICS**

16. Defendant constantly and continuously places collection calls to Plaintiff seeking and demanding payment for the alleged debt.

17. Defendant calls Plaintiff from telephone number 888-222-4227 seeking and demanding payment for the alleged debt.

18. Defendant has caused Plaintiff’s personal phone, 817-475-3010 to ring and has engaged Plaintiff in telephone conversations repeatedly.

19. Defendant continues to call at Plaintiff’s place of employment at 817-926-8700.

20. Defendant began calling on or about June 2011.

21. Defendant attempts to collect on a debt for which a previously employed collection agency, Portfolio Recovery Associates, issued a Certificate of Satisfaction and Release of Lien on Collateral stating that the amount had been paid in full.

**COUNT I**  
**DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT**

22. Defendant violated the FDCPA based on the following:

- a.) Defendant violated §1692c(a)(3) by repeatedly contacting Plaintiff at Plaintiff’s place of employment even though Defendant knew that Plaintiff’s employer prohibits the consumer from receiving such communications.
- b.) Defendant violated §1692d of the FDCPA by engaging in conduct the natural

consequence of which is to harass, oppress, or abuse the Plaintiff in connection with the collection of a debt.

c.) Defendant violated §1692d(5) of the FDCPA by causing a telephone to ring repeatedly and continuously with the intent to annoy, abuse, and harass Plaintiff.

d.) Defendant violated §1692c(a)(1) of the FDCPA by communicating with Plaintiff at such place and time known or which should have been known to be inconvenient to Plaintiff.

e.) Defendant violated §1692e(2) of the FDCPA by communicating a false impression of the character, amount, or legal status of the alleged debt.

WHEREFORE, Plaintiff, CATHY RICHARD, respectfully requests judgment be entered against Defendant, SANTANDER CONSUMER USA INC., for the following:

- a. Declaratory judgment that Defendant's conduct violated the Fair Debt Collection Practices Act,
- b. Statutory damages pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k,
- c. Actual damages,
- d. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k
- e. Any other relief that this Honorable Court deems appropriate.

**DEMAND FOR JURY TRIAL**

PLEASE TAKE NOTICE that Plaintiff, CATHY RICHARD, demands a jury trial in this case.

This 14<sup>th</sup> day of September, 2011.

RESPECTFULLY SUBMITTED,

ALEX SIMANOVSKY & ASSOCIATES, LLC

/s/ Dave Lilley

Dave Lilley, Esq.

TX Bar No. 24035064

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